

Equipment which is used for the primary purpose of reducing or eliminating pollution can qualify for the Pollution Control Facilities exemption. Equipment which is used primarily to provide an economic benefit cannot qualify for the exemption. See 86 Ill. Adm. Code 130.335. (This is a GIL.)

January 13, 1999

Dear Mr. Xxxxx:

This letter is in response to your letter dated October 15, 1998. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

First, as a matter of background, I would advise that we are the local COMPANY Dealer servicing central Illinois. As such, we have occasion to sell various models of construction equipment within the landfill industry.

A current proposal that is being evaluated addresses a potential sale of a COMPANY wheel loader to a customer for use within a 'transfer station'. It is my understanding that this piece of equipment would be used to load various types of refuse, after it has been sorted, into containers for transportation to either a landfill or some form of recycling station. The perspective customer involved has questioned me relative to the taxability issue and given the application involved, I am initiating this writing to address their question of taxability.

Because the subject line in your letter indicates you are inquiring about the Pollution Control Facilities Exemption, we have enclosed a copy of 86 Ill. Adm. Code 130.335 concerning Pollution Control Facilities. The pollution control facilities exemption extends to "any system, method, construction, device or appliance appurtenant thereto sold or used or intended for the primary purpose of eliminating, preventing, or reducing air and water pollution as the term "pollution" is defined in the Environmental Protection Act (415 ILCS 5/1 et seq.), or for the primary purpose of treating, pretreating, modifying or disposing of any potential solid, liquid or gaseous pollutant which if released without such treatment, pretreatment, modification or disposal might be harmful, detrimental or offensive to human, plant or animal life, or to property."

Loaders used in the manner described in your letter do not qualify for the pollution control facilities exemption because they are not being used to prevent or eliminate air or water pollution. Rather, their primary purpose is the loading of refuse or other materials prior to the transportation of it.

Based upon the information contained in your letter, we cannot say that a manufacturing process is occurring. However, for situations where a manufacturing process is occurring, the Retailers' Occupation Tax would not apply to sales of machinery and equipment used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease.

The manufacturing process is the production of articles of tangible personal property, whether such articles are finished products or articles for use in the process of manufacturing or assembling different articles of tangible personal property by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some existing material or materials into a material with a different form, use or name. These changes must result from the process in question and be substantial and significant. See 86 Ill. Adm. Code 130.330(b)(2), enclosed.

Regarding loaders and other moving equipment, please be advised machinery or equipment that is used primarily to convey, handle, or transport tangible personal property to be sold within production stations on production lines or directly between such production stations or buildings within the same plant is generally considered to be an exempt use within the exemption. See 86 Ill. Adm. Code 130.330(d)(3)(D).

Please note that the use of machinery or equipment to store, convey, handle, or transport materials or parts or sub-assemblies prior to their entrance into the production cycle and the use of machinery or equipment to store, convey, handle, or transport finished articles of tangible personal property to be sold or leased subsequent to the completion of the production cycle are not generally considered to be manufacturing. See 86 Ill. Adm. Code 130.330(d)(4)(C) and (D). In addition, the use of machinery or equipment to transport work in process, or semi-finished goods, between plants and the use of machinery or equipment in other nonproduction, nonoperational activities including disposal of waste, scrap or residue does not qualify under the exemption. See 86 Ill. Adm. Code 130.330(d)(4)(E) and (F).

I hope this information is helpful. The Department of Revenue maintains a Web site which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Karl Betz
Associate Counsel

KB:msk

Enc.